

CLEARY GOTTlieb STEEN & HAMILTON LLP

ONE LIBERTY PLAZA
NEW YORK, NY 10006-1470
(212) 225-2000
FACSIMILE (212) 225-3999
WWW.CLEARYGOTTlieb.COM

WASHINGTON, DC • PARIS • BRUSSELS
LONDON • MOSCOW • FRANKFURT • COLOGNE
ROME • MILAN • HONG KONG • BEIJING

Writer's Direct Dial (212) 225-2490
E-Mail jblackman@CGSH.com

ROGER W. THOMAS
MARK A. WALKER
LESLIE B. SAMUELS
ALLAN G. SPERLING
MAX GITTER
EVAN A. DAVIS
LAURENT ALPERT
VICTOR I. LEWKOW
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SANDRA M. ROCKS
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DAVID H. HERRINGTON
MARK A. ADAMS
HEIDE H. ILGENFRITZ
GEOFFREY B. GOLDMAN
DAVID S. BERG
RESIDENT COUNSEL

December 21, 2006

BY ECF AND HAND

Magistrate Judge Kiyo A. Matsumoto
United States Magistrate Judge
United States Courthouse
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Weiss et al. v. National Westminster Bank Plc, 05-CV-4622 (CPS) (KAM)
Strauss et al. v. Credit Lyonnais, S.A., 06-CV-702 (CPS) (KAM)

Dear Magistrate Judge Matsumoto:

I am writing on behalf of defendants in the above-referenced actions to provide the Court with the attached letter we received from plaintiffs' counsel this Tuesday night, which bears directly on defendants' motions to compel, and was received while we were filing our reply papers on those motions. This letter conclusively demonstrates that plaintiffs have improperly invoked the attorney work product doctrine in an attempt to avoid providing any liability discovery to defendants, precisely as described in our motion papers.

Indeed, in their letter plaintiffs not only confirm that they possess information that they have been improperly withholding, but also purport unilaterally to schedule for early February an unspecified number of depositions of unnamed inmates at one or more prisons in Israel, using documents that plaintiffs have refused up to now to produce. Since the Court has indicated that the earliest it is likely to rule on the motions to compel would be at the next status conference scheduled for January 12, 2007, the depositions should be held in abeyance until at least one month after plaintiffs have provided the documents they are improperly withholding (most, if not all, of which are likely to be in Hebrew and require translations) and answered the interrogatories they have improperly refused to answer, so that defendants will have adequate time to prepare for them.

As set forth in defendants' motion papers, plaintiffs have refused to provide any liability-related information to defendants, on purported grounds that they either do not have such information, or that it is "work product." This includes (1) refusing to provide the identities of any person other than plaintiffs themselves or defendants with any information about

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plaintiffs' liability allegations, including the identities of the perpetrators of the attacks that caused plaintiffs' injuries; (2) refusing to provide any liability-related documents except for untranslated copies of a few Israel criminal complaints and convictions; and (3) refusing to answer interrogatories that seek information about how the material support or resources these perpetrators allegedly received from defendants proximately caused plaintiffs' injuries. We have argued in our motion papers that what plaintiffs are withholding is not work product, but third party documents and information supplied to them by Israeli government authorities that was not prepared for litigation, but for the Israeli government's own political, intelligence or law enforcement purposes.

Plaintiffs' December 19 letter shows that in fact they possess discoverable information that they have failed to produce, and that it is manifestly not work product, which they should have provided in August 2006, when their discovery responses were due.

First, plaintiffs state that the Israeli Prison Service has permitted them to depose certain unnamed prison inmates, thereby confirming that their allegations are based at least in part on information received from Israeli government authorities – including the names of persons knowledgeable about the factual underpinnings of plaintiffs' liability allegations – that could not possibly be protected by the work product doctrine.

Second, plaintiffs state that they will not produce discoverable documents until sometime next month (when they also indicate they will first provide the name of the deponents), confirming that they are indeed withholding documents that are directly responsive to defendants' pending document requests that should have been provided months ago.

Third, plaintiffs' statements confirm that they already possess the names of persons – the proposed deponents and the Israeli officials whom plaintiffs are working with – who are knowledgeable about the factual bases for plaintiffs' liability allegations, which plaintiffs have also refused to provide on the pretext this information is protected by the work product doctrine.

These revelations make it clear that plaintiffs' work product objections are utterly without merit. Plaintiffs should be ordered to produce immediately all the information they are wrongfully withholding, including not only whatever plaintiffs intend to use at these depositions, but all the relevant documents that plaintiffs have received from their Israeli government sources; plaintiffs cannot pick and choose what third-party documents to produce. Holding the depositions in abeyance for at least one month following such production will obviously cause no prejudice to plaintiffs, because the deponents will be available for so long as their incarceration in Israeli prison continues.

Respectfully,



Jonathan I. Blackman

Enclosure

cc: All Counsel of Record

KOHN, SWIFT & GRAF, P. C.

ONE SOUTH BROAD STREET, SUITE 2100

PHILADELPHIA, PENNSYLVANIA 19107-3304

JOSEPH C. KOHN
ROBERT A. SWIFT
GEORGE W. CRONER
ROBERT J. LAROCCA
MICHAEL J. BONI
DENIS F. SHEILS†
DOUGLAS A. ABRAHAMS *
WILLIAM E. HOESE
MARTIN J. D'URSO *
STEVEN M. STEINGARD *
ELKAN M. KATZ
CRAIG W. HILLWIG
CHRISTINA D. SALER *
KATE REZNICK
JOSHUA D. SNYDER *
HADLEY P. ROELTGEN *

(215) 238-1700

TELECOPIER (215) 238-1968

FIRM E-MAIL: info@kohnswift.com

WEB SITE: www.kohnswift.com

E-MAIL: RSWIFT@KOHNSWIFT.COM

HAROLD E. KOHN
1914-1999

OF COUNSEL
MERLE A. WOLFSON
LISA PALFY KOHN

December 19, 2006

† ALSO ADMITTED IN NEW YORK AND NEVADA
* ALSO ADMITTED IN NEW JERSEY

Lawrence Friedman, Esq.
CLEARY GOTTLIEB STEEN &
HAMILTON LLP
One Liberty Plaza
New York, NY 10006

Re: *Weiss et al. v. National Westminster Bank Plc, (05-CV-4622)*
(CPS) (KAM)
Strauss et al. v. Crédit Lyonnais, S.A., (06--CV-702) (CPS)
(KAM)

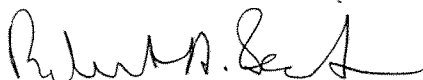
Dear Larry:

You will recall that at the September 11, 2006 hearing I advised you and the Court that plaintiffs expected to schedule certain depositions of prison inmates within the Israeli prison system. I wish to advise you that plaintiffs' counsel have received permission from the Israeli Prison Service to take a limited number of videotaped depositions of prison inmates during the week of February 4th. In early January I expect to be able to furnish you with a Notice of Deposition specifying the names of the witnesses, the location of the prison(s) and any special information needed for your entry into the prison(s). Shortly thereafter, I expect to provide you with any documents in plaintiffs' possession regarding the witnesses.

The depositions will be scheduled Sunday February 4 (the first day of the Israeli work week) through Thursday February 8, 2006.. I am advised that we will be provided with a suitable and secure room in the prison(s) for the depositions. I am also advised that video-conferencing is not possible from within the prison(s).

I will need copies of the designated counsels' passports so that they can be cleared for security purposes. (The same procedures will be required of Plaintiff's counsel.)

Very truly yours,



Robert A. Swift

RAS:pdw
Cc: All Counsel